

### **REMARKS**

The Office Action dated December 3, 2004 has been reviewed and the Examiner's comments carefully considered. The present Amendment amends portions of the specification, amends claims 1, 4, 5, 7 and 8 and adds new claims 9-12. No new matter has been added.

Of pending claims 1-8, only claims 1 and 3-8 stand rejected based upon prior art under 35 U.S.C. §103(a). Claims 1-4 stand rejected under 35 U.S.C. §112¶1 and claims 1-8 stand rejected under 35 U.S.C. §112¶2. Further, certain objections were made in the first and second paragraphs of the Office Action. In view of the foregoing amendments to independent claims 1 and 5, claims 4 and 8, and the following remarks, Applicants respectfully request reconsideration of these rejections.

### **Objections**

The Office Action objections in the first two paragraphs were considered and Applicants have amended the specification accordingly to resolve such objections. More specifically, Applicants have amended "B16" to read "T16", have deleted the first reference to the "binding plates 16" and have deleted a reference to "T4" in the specification. Applicants respectfully request reconsideration and removal of these objections.

### **35 U.S.C. §112¶1 Rejections**

The rejections to claims 1-4 based upon "failing to comply with the written description requirement" are moot in light of the amendment to the specification. For clarification purposes, the specification was amended to delete the reference to the "binding plates 16" in the specification at page 12, line 6. Further, Applicants note that claims 1-4 do not recite binding plates. Applicants respectfully submit that claims 1-4 now satisfy the written description requirement and respectfully request reconsideration and removal of the rejection to claims 1-4.

### **35 U.S.C. §112¶2 Rejections**

Claims 1-8 were rejected as being "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Claims

1 and 5 have been amended to clarify the “ROPS” language in the claims. Further, Applicants have adopted the suggested language by the Examiner regarding the use of “in” and “into” as shown above in the claims amendments. In addition, Applicants have amended the claim language “the under” to “underneath” to resolve Examiner’s concerns with the language of claims 4 and 8. Applicants respectfully submit that claims 1-8 are no longer indefinite and respectfully request reconsideration and removal of the rejection to claims 1-8.

### **35 U.S.C. §103 Rejections**

Claims 1, 4, 5, 6 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,056,502 to Takemura et al. (hereinafter “the ‘502 patent”). The ‘502 patent is directed to a reinforcing frame structure for a tractor.

A statement that modifications of the prior art meet the claimed invention without a finding as to the principle or specific understanding within the knowledge of a skilled artisan that would have motivated that person to make the claimed invention is improper. See MPEP §2143.01. Further, all claim limitations must be taught or suggested by the prior art. See MPEP §2143.03. Applicants therefore traverse the assertion that it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to make the claimed inventions of these rejected claims without citing prior art to make such rejections. See MPEP §2144.03.

More importantly, independent claims 1 and 5, as amended, are directed to a reinforcing frame construction wherein each of the rear supporting members includes a first support element (5A) disposed between an upper face of the rear axle casing and a lower end of one of the ROPS legs and a second support element (5B) extending along one side of the rear axle casing and one of the ROPS legs, to support the ROPS by the rear axle casing the tractor vehicle body (T). The ‘502 patent further does not teach or suggest such structure as now recited in the independent claims 1 and 5. The amendment further clarifies the connection between the first support element and the second support element and finds support in the specification at page 9, line 28 through page 10, line 11 and page 13, line 26 through to page 14, line 9. This claimed connection may provide the ROPS with the ability to be supported on the vehicle body by the rear axle case. Thus, the ROPS may be used even after detachment of the reinforcement frame as described on page 3, lines 16-17 of the specification.

For at least the foregoing reasons, amended independent claims 1 and 5 are not anticipated by or rendered obvious over the '502 patent or any of the remaining art of record, whether used alone or in combination. Reconsideration and withdrawal of the rejection of independent claims 1 and 5 is respectfully requested.

Claims 4, 6 and 8 depend either directly or indirectly from, and add further limitations to, independent claims 1 or 5. Therefore, claims 4, 6 and 8 are believed allowable for the reasons discussed hereinabove in connection with independent claims 1 and 5. Therefore, for at least the above reasons, reconsideration of the rejections of claims 4, 6 and 8 is respectfully requested.

Claims 1 and 3-8 were also rejected under 35 U.S.C. §103(a) as being unpatentable over the '502 patent in view of U.S. Patent No. 5,248,237 to Nakamura (hereinafter "the '237 patent"). The '237 patent is directed to a frame structure of a working vehicle for attaching a working implement.

As discussed above, independent claims 1 and 5, as amended, are directed to a reinforcing frame construction wherein each of the rear supporting members includes a first support element (5A) disposed between an upper face of the rear axle casing and a lower end of one of the ROPS legs and a second support element (5B) extending along one side of the rear axle casing and one of the ROPS legs, to support the ROPS by the rear axle casing the tractor vehicle body (T). The '502 patent further does not teach or suggest such structure as now recited in the independent claims 1 and 5. The amendment further clarifies the connection between the first support element and the second support element and finds support in the specification at page 9, line 28 through page 10, line 11 and page 13, line 26 through to page 14, line 9. This claimed connection may provide the ROPS with the ability to be supported on the vehicle body by the rear axle case. Thus, the ROPS may be used even after detachment of the reinforcement frame as described on page 3, lines 16-17 of the specification.

For at least the foregoing reasons, amended independent claims 1 and 5 are not anticipated by or rendered obvious over the '502 patent in view of the '237 patent or any of the remaining art of record, whether used alone or in combination. Reconsideration and withdrawal of the rejection of independent claims 1 and 5 is respectfully requested.

Claims 3, 4 and 6-8 depend either directly or indirectly from, and add further limitations to, independent claims 1 or 5. Therefore, claims 3, 4, and 6-8 are believed

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allowable for the reasons discussed hereinabove in connection with independent claims 1 and 5. Therefore, for at least the above reasons, reconsideration of the rejections of claims 3, 4 and 6-8 is respectfully requested.


### **CONCLUSION**

For all of the foregoing reasons, Applicants believe that claims 1-8, as amended, are patentable over the cited prior art and in condition for allowance. Accordingly, reconsideration of the rejections and allowance of all pending claims 1-12 is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees as set forth in 37 C.F.R. §§ 1.16 and 1.17 which may be required, or to credit any overpayment to Deposit Account No. 23-0650.

Respectfully submitted,

THE WEBB LAW FIRM

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